

After reviewing the record, the Board finds for purposes of preliminary hearing that the application for review filed by the claimant should be dismissed. This is an interlocutory appeal from a preliminary order which was within the Administrative Law Judge's jurisdiction to enter. This appeal does not involve an issue considered jurisdictional and subject to review by the Board pursuant to K.S.A. 44-534a(2). Having reviewed the evidentiary record filed herein, the Board makes the following findings of fact and conclusions of law:

A preliminary hearing was held on September 5, 2001, before the Administrative Law Judge. The Administrative Law Judge issued an Order which includes the following finding:

The Court will await for further information from Dr. Kumar as to whether the Claimant is suffering from a closed head injury.

This hearing is therefore continued so that the Claimant may present additional medical evidence.

The Administrative Law Judge did not order preliminary benefits of either temporary total disability compensation or medical treatment to be provided at the expense of the respondent. Instead, he continued the hearing in order to await further information from Dr. Kumar and allow the claimant to present additional medical evidence. This was an interlocutory order by the Administrative Law Judge. The preliminary hearing was continued until such time as the additional medical evidence was provided. The Administrative Law Judge deferred making a preliminary ruling until after the additional information was obtained.

The September 6, 2001, preliminary Order is an interlocutory order. The preliminary hearing was not concluded. Claimant's application for review is premature. The Board does not have jurisdiction to review the subject order and this appeal should, therefore, be dismissed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Board that the application for review filed by claimant should be, and is hereby, dismissed and the September 6, 2001, preliminary Order of Administrative Law Judge Bryce D. Benedict remains in full force and effect.

IT IS SO ORDERED.

Dated this _____ day of October 2001.

BOARD MEMBER

c: Jeff K. Cooper, Attorney for Claimant
 Eric T. Lanham, Attorney for Respondent and its Insurance Carrier
 Bryce D. Benedict, Administrative Law Judge
 Philip S. Harness, Workers Compensation Director